

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20733 of 1995

Between:

Ahmed Rasool, S/o. Gulam Rasool, Occ:Attender,
Subordinate Judge's Court, Nizamabad.

..... PETITIONER

AND

1 The Registrar Administration, High Court of A.P.,

High Court Buildings, Hyderabad.

2 The District & Sessions Judge, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more in the nature of Writ of Mandamus, and declare the order Dis.No.4338,dt.16.8.1994 in Administration File No.268/1989 issued by the 2nd respondent and the consequential order Roc.No. 4353/94-C.Spl(Con.) dt.6-7-1995 issued by the 1st respondent , as wholly arbitrary, highly illegal, unjust, and unconstitutional, and contrary to the principles of the natural justice, by holding that the entire enquiry initiated at the instance of the persons who are not in good terms with the petitioner and the enquiry conducted and the orders of the punishment issued are contrary to the A.P.C.S.(CC&A) Rules,1963 and principles of natural justice , vitiated by bias on the part of the witnesses etc., and pass such other order or orders in the circumstances of the case.

Counsel for the Petitioner:MR.T.SURYA KARAN REDDY

Counsel for the Respondents: Smt M.Bhaskara Lakshmi

The Court at the admission stage made the following :

ORDER: (Per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties.

The petitioner has been punished for misconduct by withholding three annual increments with cumulative effect. He made an appeal to the High Court also, which was rejected, therefore, he has filed this writ petition.

Many grounds have been taken to challenge the order impugned. Amongst the grounds, one of the grounds is that the Enquiry Officer did not follow the rules while holding the enquiry and took into consideration, the statements of the witnesses, which were recorded, behind his back, in the preliminary enquiry. Basing on the statements recorded during the preliminary enquiry behind the back of the petitioner, he was asked to cross-examine such witnesses and as such he was prejudiced.

Learned counsel for the petitioner submits that under Rule 19(2) of the A.P.Civil Services (CCA) Rules, 1963, it is incumbent upon the Enquiry Officer to record the statements of the witnesses in the presence of the delinquent officer. We have also seen the charge against the petitioner. The charge was

“That you on 08-09-1989 in the absence of Superintendent of District Court visited District Court Superintendent Section and used loud voice and in a derogatory manner stated that you know who was behind your transfer and that the Superintendent was encouraging bad elements and that you would see all these persons who were behind your transfer and that you were making enquiries and watching all persons and also said that you would see how long the Superintendent work in his chair.”

We feel that withholding of three annual increments with cumulative effect is a major punishment so also excessive in the light of the charge framed. Therefore, the impugned order is quashed. The writ petition is allowed. No order as to costs.

(Bilal Nazki, ACJ)

5th April, 2005.

(Dr.G.Yethirajulu,J)

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To

1 The Registrar Administration, High Court of A.P.,

High Court Buildings, Hyderabad.

2 The District & Sessions Judge, Nizamabad.

3 One C.C to the Legal Section, High Court Buildings, A.P.,

Hyderabad.

4 Two C.D copies.